

Remarks

Reconsideration of this application is requested in view of the foregoing amendments and the following remarks.

The status of the claims is as follows: claims 1-17 are pending and have been rejected.

With regard to the objection to the drawings, this objection should be withdrawn.

Claims 1-3, and 6-10 have been amended to set out the elements in means plus function format. Each of the elements of claim 1 are shown in the drawings currently on file. In particular, the means for importing is shown in Figures 1 and 2. This is a computerized system and the structure to perform the means is shown in Figure 1 and described functionally in Figure 2. The means for performing the intra-operative survey is shown in Figures 2, 3 and 5. The means for registering are shown in Figures 3, 5, 9, 10, and 11, and the means for assisting are shown in Figures 6, 11, 12, 13, and 14. Therefore all elements of the claim are shown in the drawings as required. This objection to the drawings should be withdrawn.

The objections to claims 6, 7, 16, and 17 have been overcome by making the amendment suggested by the examiner.

The examiner has rejected claims 11-17 under 35 U.S.C. §102(e) as anticipated by U.S. Publication No. 2004/0106916, Quaid. This rejection is traversed. Note that the rejection stated claims 10-17 but it is believed the examiner meant claims 11-17.

The examiner has indicated in the office action that Quaid disclosed the anatomical survey step in FIG. 3A and at paragraph 61. There is no disclosure of performing an anatomical survey in either FIG. 3A or paragraph 61. Paragraph 61 in describing FIGS. 3A and 3B only describes working volumes and areas 22 and 24, but this disclosure and any other disclosure of Quaid does not disclose the step of “performing an anatomical survey of the joint and an associated limb.” Additionally, there is no digitization of selected landmarks or determination of mechanical axis for the limb based on the digitized landmarks. For at least these reasons, the rejection of claims 11-17 as anticipated by Quaid is unwarranted and should be withdrawn.

In addition, regarding claims 16-17, there is no disclosure of a kinematic assessment in Quaid. The examiner has cited certain references which do not appear to be in Quaid. This element of claims 16-17 is clearly not disclosed or suggested in Quaid.

The examiner has also rejected claims 1-10 under 35 U.S.C. §103a as unpatentable in view of Quaid. This rejection is traversed. Note that the rejection stated claims 1-9 but it is believed the examiner meant claims 1-10.

As discussed above, Quaid does not disclose or suggest a system to perform an anatomical survey of a joint and its associated limbs. This concept is just not disclosed or even suggested in Quaid. Quaid performs standard image registration to the patient without using any means to perform an anatomical survey. As noted above, there is also no disclosure of the kinematic assessment of claims 6 and 7. For at least these reasons, the rejection of claims 1-10 under 35 U.S.C. §103a as unpatentable in view of Quaid is unwarranted and this rejection should be withdrawn.

It is believed that the instant application has been placed in condition for allowance. Such action at an early date is requested.

For this reason, it is believed that all claims are now in condition for allowance. An early indication of allowance is requested.

If there are any issues remaining that can be resolved by telephone, the examiner is invited to call the undersigned.

1.

Appl. No. 10/701,335
Amdt. dated April 30, 2007
Reply to O.A. of January 29, 2007

Deposit Account Authorization

The Commissioner is hereby authorized to charge any deficiency in any amount enclosed or any additional fees which may be required during the pendency of this application under 37 CFR 1.16 or 1.17, except issue fees, to Deposit Account No. 50-1903.

Respectfully submitted,

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